

Message Text

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44

ACTION OPIC-12

INFO OCT-01 ARA-16 ISO-00 EB-11 COME-00 SSO-00 L-03 AID-20

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FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC NIACT IMMEDIATE 7674

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E.O. 11652: N/A

TAGS: EIND, CI

SUBJECT: CERRO - OPIC

PASS OPIC

FOR GILBERT FROM MORGAN

1. WALSH WILL PROBABLY TRY TO IMPROVE ON LAST MM-WALSH AGREEMENT (WHICH WAS BY ITS TERMS APPLICABLE ONLY TO OLD DEAL), ON GROUNDS THAT NEW DEAL IS MORE FAVORABLE TO US. LAST AGREEMENT INVOLVED 15 PERCENT DISCOUNT, 7.26 PERCENT P.A. INTEREST.

2. ARGUMENTS THAT WALSH WILL PROBABLY USE ARE AS FOLLOWS:

A) NEW DEAL IS CLEANER, BY VIRTUE OF REFINANCING LOAN.

B) NEW DEAL HAS FORUM AND CHOICE OF LAW CLAUSES MORE ACCEPTABLE TO US.

C) NEW DEAL HAS AN INITIAL PAYMENT AT CLOSING ON NOTES FOR NOTES. OLD DEAL HAD NONE.

D) NEW DEAL HAS BETTER AND LARGER PREPAYMENT PROSPECTS, BY UTILIZING SOME MATERIALS ALREADY IN LIMITED OFFICIAL USE

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EXISTENCE AND SOME TO BE PRODUCED IN 1974. OLD DEAL

LOOKED TO PRODUCT ATTRIBUTABLE TO FUTURE (AND HENCE UNCERTAIN) EXPANSION OF MINE.

3. WALSH ASKED ME WHETHER WE DIDN'T THINK NEW DEAL JUSTIFIED A 100 PERCENT GUARANTY SETTLEMENT (RATHER THAN 85 PERCENT). I SAID MM WOULD DECIDE BUT THAT MY VIEW WAS THAT OUR 85 PERCENT FIGURE WAS BASED ON OUR EVALUATION OF THEIR CLAIM, AND THAT THIS EVALUATION HAD NOT CHANGED. INDEED IT HAD BEEN STRENGTHENED BY REFINANCING LOAN, PAYING OFF OLD INSURED NOTES. I ALSO SAID THAT MATERIALS FOR PREPAYMENT WERE LARGELY A KIND OF MATERIAL NOT USUALLY MARKETED COMMERCIALY - AND IN ANY EVENT CAME FROM ANOTHER MINE AND SO COULD BE THE SUBJECT OF VARIOUS DISPUTES. FOR BOTH THESE REASONS THERE WAS A GOOD BIT OF RISK ATTACHED TO THE NEW PREPAYMENT MECHANISM.

4. THE FORUM AND CHOICE OF LAW PROBLEMS ARE AN IMPROVEMENT BUT LEAVE MUCH TO BE DESIRED. I AM ESPECIALLY TROUBLED BY THE LIMITED NATURE OF THE FORMER AND HAVE TOLD MALSH THIS. SO I WOULD RATE THE ARGUMENT ON THIS POINT A TOSS-UP (THE PROBLEM IS THAT THE PARTIES MAKE A LIMITED SUBMISSION TO FOREIGN COURTS - TO DECIDE QUESTIONS OF PAYMENT AND COLLECTION. A GENERAL SUBMISSION WOULD HAVE BEEN MUCH MORE PREFERABLE).

5. HALVERSON SHOULD HAVE DELIVERED THE NEW SCHEDULE BY NOW. DISCOUNTING THE TOTAL STREAM OF PAYMENTS ON B NOTES (USING A DISCOUNT FACTOR OF 3.567 PERCENT PER SEMESTER) GIVES A PRESENT VALUE OF \$28,464,153.55 AS OF 28FEB1974. USING THIS AS THE DENOMINATOR AND 85 PERCENT OF \$14.2 MN. AS NUMERATOR, WE GET A FRACTION EQUAL TO .4241. IF OPIC WERE TO GUARANTY THIS PORTION OF EACH PAYMENT, IT WOULD HAVE A TOTAL EXPOSURE OF \$18,356,034. THIS COMPARES WITH \$17.1 MN. UNDER THE AGREEMENT IN PRINCIPLE AS TO THE OLD DEAL. THE METHOD OF CALCULATION USED IS THE SAME IN EACH. CERRO (AND SOMEONE AT OPIC IF POSSIBLE) SHOULD CHECK THE CALCULATIONS. (NOTE: THE USE OF A 6-MONTH RATE OF LIMITED OFFICIAL USE

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3.567 PERCENT IS BASED ON THEORY THAT COMPOUNDING TWICE A YEAR YIELDS 7.26 PERCENT ANNUAL RATE.)

6. I WILL GET AND REVIEW THE LATEST DRAFTS FROM PUGA THIS WEEK AND WILL PHONE OR CABLE TEXT OF A SUITABLE LETTER TO GIVE CERRO IF AGREEMENT IS REACHED.
POPPER

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